
(1996) 06 AP CK 0019
In the Andhra Pradesh High Court
Case No : W.A. No. 848 of 1994

Indian Airlines Ltd. and Others	Vs	APPELLANT
Indian Airlines Technical Assistants Union		RESPONDENT

Date of Decision : 12-06-1996

Acts Referred:

Citation : (1997) 75 FLR 489 : (1998) 3 LLJ 961

Hon'ble Judges : Y. Bhaskar Rao, J;G. Bikshapathy, J

Bench : Division Bench

Advocate : K. Srinivasa Murthy, for the Appellant; J. Venugopala Rao, for the Respondent

Final Decision : Dismissed

Judgement

G. Bikshapathy, J.—The Appellant/Management Indian Airlines aggrieved by the orders of the learned single Judge in W.P.No. 14793 of 1993, dated July 5, 1994, has filed the present Writ Appeal.

2. The Writ Petition was filed by the Indian Airlines Technical Assistants Union seeking directions to the Respondents to recognise the Union and negotiate with them before any policy decision touching the service conditions of the Technical Assistants is finalised. Before the learned Single Judge, it was the case of the Union that it was registered under the provisions of the Trade Union Act, 1992. The Technical Assistants working under the Appellant Management throughout India are its members. The Appellant-Management has not been giving fair chance to the Workmen and the interest of its members has not been effectively protected by Air Corporation Employees Union which was a recognised union. It is the principle grievance of the Union that the Appellant Management is not giving any hearing to the problems of the Technical staff and that service conditions are being finalised to the prejudice of interest of its members. The Appellant Management is not making any effort to settle the pending issues on the ground that the Respondent trade union is not a recognised union. It is also the submission of the union that the Appellant Management had recognised other

unions/ associations and has been entering into various settlements. The Petitioner union was not given any participation. Therefore, the union approached the Court for issuing appropriate directions to the Management to recognise the union and negotiate the pending issues. The Appellant-Management contended before the learned single judge that the Writ Petition as filed was not maintainable as no Writ would lie for recognising a Union. It was also contended that the Management is not a State under Article 12 of the Constitution of India and on that account also the Writ Petition was liable to be dismissed. The Management recognised Air Corporation Employees Union being the majority union and the said union has been representing the interest of the Technical Staff also. Therefore, it was submitted that the Writ Petition seeking recognition for the purpose of espousing the cause of its members is absolutely misconceived. The Writ Petition was allowed by the learned Single judge by orders dated July 5, 1994 by directing the Respondents to afford the opportunity to the union to represent its own members and discuss their grievance. As against the said order, the Present Writ Appeal has been directed.

3. The learned Senior counsel Mr. K. Srinivasa Murthy for the Appellant Management submits that the learned single Judge did not consider the relevant issues in proper perspective and thereby rendered an erroneous decision. He reiterates that no Writ would lie for issuance of directions to the management to recognise the union. As it is purely a policy matter, it is open for the management either to recognise or not to recognise a particular union and the Courts cannot compel the management to recognise a particular union in the absence of any statutory rules. We are not able to accept the contention of the learned counsel. The learned single judge while concurring with the learned counsel that the recognition of a union is a policy matter held that whenever policy decisions are taken due consideration should be given to all conflicting interests. The (2nd) respondent union represent the interest of a particular category of employees namely Technical Assistants. It is categorically admitted by the Management that it has recognised six Unions/Associations under the Code of Discipline for the purpose of negotiations and settlements under the Industrial Disputes Act, while two officers Associations which are not trade unions are also recognised for the purpose of entering into agreements or Memorandum of Understandings. It is also admitted by the Appellant-Management that after 1959, no recognition was granted to any union. It is to be noted that under the Code of Discipline, the majority union is assessed on the basis of verification of membership through secret ballot system. The union having majority members, is recognised by the management for a period of two years. The said union is treated as a sole bargaining union with the management. However, in the instant case, it is not the case that the membership of the unions are verified for every two years to assess the majority union and on the other hand, it is the case of the management that after 1959 no union was granted any recognition. Thus, it is manifest that the Code of Discipline has not been followed by the management and that the recognition

conferred on the union prior to 1959 is being continued without reference to the respective strengths. As held by the Supreme Court in *Food Corporation of India Staff Union Vs. Food Corporation of India and others*, , collective bargaining is the principle *raison d'être* of the trade unions, and if there are more than one union operating in an industry or an undertaking, the employers normally face with the situation as to with whom the negotiations should be undertaken. After referring to the de-merits of the check of systems, the Supreme Court observed that "the method of secret ballot reflects the correct position of the members of the Trade Unions operating in the Industry". But, however, it appears that no such exercise was conducted by the Respondents for assessing the membership of the union and consequent recognition for the purpose of entering into agreements under Industrial Disputes Act after 1959. It is quite probable the Unions which were recognised in 1959 may not have the same strength of membership as on today and some more unions must have come into existence. Therefore, it is the appropriate time that the Appellant-Management should undertake the process of recognition of the unions, under the secret ballot system as per the guidelines issued by the Supreme Court in *Food Corporation of India* case (*supra*).

4. Be that as it may, it is the grievance of the Union that when the collective demands are pending before the National Tribunal, it had itself impleaded before the Tribunal to protect the interest of the members. The reasons appear to be obvious because when once the National Award was passed it binds all the employees. Apart from the matters which are pending before the Tribunal, there may be oilier demands which are not under adjudication by the Tribunal, but at the same time, the management may refuse to entertain on the ground that it is not a recognised union. For the purpose of making demands by the Union, one need not be a recognised union and it is always open for the registered trade union to raise the demands and proceed with the same under the provisions of the Industrial Disputes Act. Illustratively, such demands may include individual demands, cases of individual employees and specific demands confined to a particular category of staff.

5. The Trade Union Act confers certain rights on the Registered Union to ventilate the grievance of the members of its union. The management is obliged to hear them and resolve its disputes as far as possible without resorting to the conciliation and adjudicatory process. Though the management is not obliged to recognise the (2nd) respondent union, but at the same lime it cannot refuse to hear the grievances voiced by it in respect of service conditions of its members. The learned single Judge has categorically stated that the Appellant Management being a State is expected to conduct itself in a fair and reasonable manner in the interest of Industrial peace and harmony. Therefore, recognising the union for the limited purpose of negotiation and settlement in respect of its members, cannot be construed as a recognition under the Code of Discipline. On the other hand, it improves the labour-management relations and paves the way for achieving optimum output. There is no provision under the Industrial Disputes

Act or Trade Union Act, prohibiting the management from negotiating, discussing or entering into settlement with the unrecognised union. It is only in cases where the demand of unrecognised union is already seized of by the recognised union, such a demand would not be maintainable.

6. Thus, we do not find any infirmity in the order of the learned Single Judge. We are in full agreement with the order passed by the learned Single Judge. We find no merits in the Writ Appeal.

7. Accordingly, the Writ Appeal is dismissed. No costs.